THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.884 of 2006

Dated 10-03-2006

Between:

Gopavarapugudem Primary Agricultural

Cooperative Society, Gannavaram Mandal.

..... PETITIONER

AND

The District Collector (Co-op) District Krishna

at Machilipatnam, and two others.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.884 of 2006

O R D E R:

The Gopavarapugudem Primary Agricultural Cooperative Society represented by its president filed this writ petition seeking a Mandamus declaring the order dated 09-01-2006 passed by the second respondent-Deputy Registrar of Cooperative Societies, Nuzivid, as arbitrary and illegal.

It is not in dispute that election to the Managing Committee of the petitioner-society was held on 26-10-2005 and thirteen Directors were elected, who constituted the Managing Committee. While so, it appears that six Directors submitted a representation dated 05-01-2006 in person to the second respondent tendering their resignation to their membership to the Managing Committee of the petitioner-society and stating that they are not willing to continue in office in view of the existing conditions in the management of the society since the date of their election. On the basis of the said

representation and taking into consideration the fact that one of the elected members expired, the second respondent opined that the remaining six Directors will not satisfy the quorum to conduct meeting of the Society as required under Rule 23 of the Andhra Pradesh Cooperative Societies Rules 1964, (hereinafter referred to as 'the Rules'). Accordingly, three officials of the department have been appointed as part time person in charge of the petitioner-society to manage its affairs under Section 32 (7) (a) of the Andhra Pradesh Cooperative Societies Act, 1964 (hereinafter referred to as 'the Act') for a period of six months with immediate effect, by order dated 09-01-2006. The said order is under challenge in this writ petition primarily contending that no resignations as alleged in the impugned order were received by the president of the petitioner-society and at any rate since the resignations said to have been tendered have not been accepted in accordance with the procedure prescribed under Rule 23 AAA of the Rules, the second respondent is not justified in appointing the person in charge committee.

The second respondent filed a counter-affidavit in which it is stated that the resignation letters of the six Directors were sent to the president of the Society under certificate of posting on 05-01-2006 and since there is no quorum as required under Rule 23 of the Rules, the person in charge committee has been rightly appointed in exercise of powers under Section 32 (7) (a) of the Act.

Having heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents and having perused the relevant statutory provisions, it is clear that the resignation said to have been tendered by the six directors among the thirteen elected directors is not in accordance with the procedure prescribed under the statutory rules.

It is relevant to note sub-Rule (3) of Rule 23 AAA of the Rules, which runs as under:

> *"Notwithstanding anything in the bye-laws of the society, any member or members of the committee may resign their seats by sending a letter of resignation by*

Registered Post or by tendering it in person to the Chief Executive Officer/President of the society and such resignation shall take effect from the date it is accepted by the Managing Committee"

On a reading of the said Rule, it is clear that the letter of resignation if any by any member of the committee shall be sent by registered post or by tendering it in person to the Chief Executing Officer/President of the Society. Nothing has been placed before this Court to show that the resignations said to have been tendered by the six Directors were sent by registered post to the president of the society. That apart it is also clear from the said Rule that the resignations will take effect only from the date they are accepted by the Managing Committee. Therefore, the second respondent is not justified in appointing the person in charge committee on the ground that since six out of the thirteen elected Directors have resigned, there is no quorum as required under Rule 23 of the Rules.

Accordingly the impugned order 09-01-2006 is set aside and the writ petition is allowed. No costs.

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(G. ROHINI, J)

Date:10-03-2006

ghn